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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/665,899	09/20/2000	Masayoshi Iwase	10517/74	6300
23838	7590	05/18/2005	EXAMINER	
KENYON & KENYON 1500 K STREET, N.W., SUITE 700 WASHINGTON, DC 20005			MERCADO, JULIAN A	
			ART UNIT	PAPER NUMBER
			1745	

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/665,899

Applicant(s)

IWASE ET AL.

Examiner

Julian Mercado

Art Unit

1745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-5,7,8,10-16,18,20,22,24,26 and 28-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 11-14,20,22,24,26 and 28-31 is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7,8,10,15,33,16,18 and 32-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/16/05
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Art Unit: 1745

## **DETAILED ACTION**

### ***Remarks***

This Office action is responsive to applicant's amendment filed February 22, 2005.

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on February 16, 2005 has been considered by the examiner.

Acknowledgement is made of applicant's pointing out that documents cited in the July 23, 2004 IDS (which was previously only considered in-part by the examiner) may be found in the parent application. Documents "F" and "H-N" will be considered at a later date as the documents are in the process of being retrieved from the parent file.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-5, 7, 8, 10, 15, 16, 18 and 32-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Dews et al. (U.S. Pat 3,801,374)

The rejection is maintained for the reasons of record. The examiner notes that applicant's amendment recites a gas supply inlet formed as an opening along an edge of the separator

bottom. The gas supply inlet [28] in Dews et al. is considered to be along an edge of the separator, see Figure 1. The inlet is considered as being in the bottom of the separator, as seen in the Figure. Additionally, a 90° rotation of the Figure so as to view the stacking of the fuel cell and its components in a top-to-bottom convention maintains the inlet as being in the bottom, i.e. bottom-half of the separator [18].

Applicant's arguments have been fully considered, however they are not found persuasive. Applicant's arguments appear to place great emphasis on an alleged lack of correspondence between the examiner's interpretation of Dews et al. and what is actually cited in the text, e.g. "the cited passage of Dews (col. 2, lines 31-35) says nothing "about a cooling portion of the separator...", "the Examiner's argument... is in no way supported by the actual text of Dews." Applicant is reminded that citations to the reference relied upon is provided as a courtesy and is not an exclusive nor exhaustive citation to the reference, which is relied upon in its entirety including the corresponding Figures. Notwithstanding applicant's limited interpretation of the cited portions of Dews et al., in reply to applicant's first assertion that Dews does not teach a cooling portion of the separator, refer to column 2 line 27-29 wherein it is stated that "[t]he plate 18 is shown as serving the additional function of providing a *cooling chamber* 44 having an inlet 40 and outlet 42." (emphasis added) In reply to applicant's second assertion that the cooling plate is not coextensive with the separator body, refer to column 2 line 24-31 and note the description of the separator [18] as having both a fuel and oxidant gas chamber and a cooling chamber along correspondingly opposed sides of the separator.

The amendment to dependent claim 16 is noted, though the added limitation appears to merely clarify that applicant intends to compare the number of projections in one region with

Art Unit: 1745

that of another region. To this extent, applicant asserts that Dews et al. does not suggest a number of projections arranged in the regions near an inlet portion as being greater than that near an outlet portion. However, the examiner maintains the reasoning set forth in the prior Office action, wherein the middle region is attributed to being near the inlet portion and therefore amounting to a greater number of projections. The claim does not preclude an interpretation of Dews et al. so that the projections in the middle region may be accounted for as being part of the region near the inlet portion [28].

Claims 32-34 are newly submitted. As to new dependent claim 32, the widths of the region are deemed consistent in that the first and last regions are two-projections wide throughout while the middle region is four-projections wide throughout.

New independent claim 33 and dependent claim 34 are notably modeled after claim 1 and dependent claim 16. Claim 33 is rejected based on Dews et al. to the extent that the rejection of claims 1 and 16 are readable thereto. The examiner disagrees with applicant's assertion that new independent claim 33 is "likewise allowable, based on reasoning similar to that applied to claim 11" as claim 33 is completely silent on the allowable feature of claim 11, i.e. a feature drawn to the widths of each of the regions being different.

Applicant is also reminded that the application, which totals 86 pages and 32 drawings, is characterized as a so-called "Jumbo" application (such applications being more than 20 pages, exclusive of claims). To that extent, applicant is requested to provide specific page and line citations to the specification in lieu of the presently provided citations accompanying applicant's arguments and assertions, which merely refer the Office to the "associated description" of the specification.

Art Unit: 1745

***Allowable Subject Matter***

Claims 20, 22, 24, 26, and 28-31 are allowed for the reasons set forth in the prior Office action.

Provisionally allowed claim 11 is noted as having been rewritten in independent form including all the limitations of base claim 1. Claim 11 and dependent claims 12 and 14 are allowed for the reasons set forth in the prior Office action.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julian Mercado whose telephone number is (571) 272-1289. The examiner can normally be reached on Monday through Friday.


Art Unit: 1745

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan, can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

jam

  
GREGG CANTELMO  
PRIMARY EXAMINER